

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DEBORAH B. SMITH,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION
)	FILE NO.
)	
BILL GRANT, MAYOR CITY OF)	
CANTON, INDIVIDUALLY AND IN)	
HIS CAPACITY AS MAYOR,)	
COURTNEY ROGERS, INDIVIDUALLY)	
AND IN HER CAPACITY)	
AS POLICE OFFICER FOR CANTON)	
P.D., STEPHEN MERRIFIELD,)	
INDIVIDUALLY AND IN HIS)	
CAPACITY AS CHIEF OF POLICE)	
OF CANTON P.D.,)	
)	
Defendants.)	

NOTICE OF REMOVAL

COME NOW defendants Bill Grant, individually and in his capacity as Mayor of the City of Canton; Courtney Rogers, individually and in her capacity as Police Officer for the Canton Police Department; and Stephen Merrifield, individually and in his capacity as Chief of the Canton Police Department, and pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, file this Notice of Removal within the time prescribed by law, and respectfully show the Court as follows:

1.

On or about February 1, 2023, plaintiff filed her Complaint for Damages against defendants in the Superior Court of Cherokee County.

2.

On February 21, 2023, a copy of the Summons and Complaint for Damages directed to Mayor Grant was delivered to Donna Bell, the Executive Administrative Assistant to the City Manager, at City Hall, 110 Academy Street, Canton, GA 30114. Also on February 21, 2023, a copy of the Summons and Complaint for Damages directed to Officer Rogers and Chief Merrifield was delivered to Administrative Assistant Pam Wetzel at the Canton Police Department, 151 Elizabeth Street, Canton, GA 30114. Defendants do not concede that these apparent attempts at service were sufficient under either state or federal law.

3.

All process and pleadings received by defendants are attached collectively hereto as Exhibit "A."

4.

This Notice of Removal is filed within thirty (30) days of defendants' receipt of the Summons and Complaint for Damages.

5.

All defendants consent to the removal of this action.

6.

Plaintiff alleges in her Complaint for Damages that defendants violated her Fourth Amendment rights and that she has a right to sue under 42 U.S.C §1983 based on her allegations of false arrest and false imprisonment. (Complt., Introduction ¶ 1.¹) Plaintiff further alleges that “federal law trumps” the City of Canton’s entitlement to immunity under state law, and that “the proper venue here is the Northern District (Atlanta District Court) at the Richard B. Russell federal Building [sic].” (Id.)

7.

The Complaint asserts claims over which this Court has original jurisdiction founded on a claim or right arising under the United States Constitution. 28 U.S.C. § 1983.

8.

Pursuant to 28 U.S.C. § 90(a)(2), the United States District Court for the Northern District of Georgia, Atlanta Division, is the district court having

¹ This is the first of two paragraphs numbered as paragraph “1” of the Complaint. The second paragraph number “1” appears under the “PARTIES” section of the Complaint.

jurisdiction over the geographical area where the state court action is pending. Pursuant to 28 U.S.C. § 1446(a), defendants are entitled to remove this action from the Superior Court of Cherokee County to this Court.

9.

Defendants have provided written notice of the filing of this Notice of Removal to plaintiff's counsel of record and the Clerk of Court for the Superior Court of Cherokee County, a copy of which is attached hereto as Exhibit "B."

10.

Based on the foregoing, defendants respectfully request that this Court allow removal and assert jurisdiction over the state court action.

This 23rd day of March, 2023.

CAROTHERS & MITCHELL, LLC

/s/ Brian R. Dempsey

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing **NOTICE OF REMOVAL** by depositing a true and correct copy thereof in the United States mail, postage prepaid, properly addressed to counsel of record:

Lloyd J. Matthews
3011 Towne Mill Avenue
Canton, Georgia 30114
lmattmatthews@gmail.com

This 23rd day of March, 2023.

CAROTHERS & MITCHELL, LLC

/s/ Brian R. Dempsey

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